

MONTANA PUBLIC DEFENDER COMMISSION
CONTRACTS PROCESS COMMITTEE MEETING

The Yogo Inn, Lewistown, Montana

Minutes

October 10, 2008

(Approved at the January 9, 2009 Commission Meeting)

Call to Order

The meeting of the Contracts Process Committee was called to order at 8:25 a.m. by Committee Chair Mike Sherwood.

Commissioners Present

Mike Sherwood, Jim Taylor, Ken Olson

Other Interested Parties

Randi Hood, Chief Public Defender

Approval of Minutes

The minutes of the July 17, 2008 meeting were approved as submitted.

New MOU Discussion

The Memorandum of Understanding (MOU) for contract attorneys has been modified and distributed. The changes are intended to appease some of the contractors who have previously been reluctant to sign the MOU, and the office will make a strong push to get all attorneys doing OPD work to sign the new version.

The governor's budget did not include an increase to contract attorney rates at the level requested by the Commission. The Commission had requested an increase to \$75 per hour, but all third party providers are currently being held to an increase of approximately 2.5% per year, which comes to \$61.50 for the first year of the biennium and \$63.00 per hour for the second year. Chief Hood said that the amount of the increase won't be popular, but including any increase in the budget gives contractors the opportunity to advocate for a larger increase for themselves.

Rejected Invoices and Pre-approvals

Contract Manager Larry Murphy requested guidance regarding Greg Jackson's request for payment for work on the clemency case from several people, including Legislative Analyst Sheri Heffelfinger, the governor's chief counsel, and Department of Administration legal staff. Mr. Murphy recommends paying the costs of Mr. Jackson's work in Montana, but not for work done outside OPD's jurisdiction. Mr. Jackson has been asked to submit a claim.

Commissioner Taylor consulted with other death penalty qualified counsel and recommends that OPD exclude from payment claims for work on civil actions both in Montana and in other jurisdictions. He suggested changing the standards to exclude civil litigation even in death penalty cases unless authorized by OPD. Chief Hood will review the standard and bring a proposed change to the next committee meeting.

The contract attorney that failed to file a claim in FY 2008 despite repeated reminders has finally submitted a claim for the entire year in excess of \$60,000. Chief Hood explained the history of OPD's relationship with this attorney. He signed an MOU agreeing to the "45 day" rule after OPD agreed to pay him for his FY 2007 claim, also submitted for the entire year. Chief Hood and Mr. Murphy have denied the FY 2008 claim, and wanted the Commission to be aware that there is a potential lawsuit. Commissioners Taylor and Sherwood supported the decision.

Public Comment

There was no public comment, but Commissioner Sherwood will offer the opportunity for public comment related to this committee when the full Commission reconvenes.

Old Business/New Business

There was no additional business.

Adjourn

The meeting adjourned at 8:55 a.m.